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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Common Carrier Bureau
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In the Matter of)

Common Carrier Bureau Seeks Comment)
on the Maine Public Utilities)
Commission's Petition For)
Additional Authority To Implement)
Number Conservation Measures)

DA 99-638
NSD File No. L-99-27

cc DOCKET: 96-98

To: Chief, Common Carrier Bureau

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

NEXTEL COMMUNICATIONS, INC.

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Date: May 3, 1999

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COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. INTRODUCTION

Pursuant to the Public Notice of the Federal Communications Commission ("Commission"),^{1/} Nextel Communications, Inc. ("Nextel") respectfully submits these Comments on the Maine Public Utilities Commission's ("PUC") request for additional authority to implement various number conservation measures that are outside the scope of the PUC's delegated authority.^{2/}

In the Request, the PUC seeks authority to implement fill rates for obtaining new area codes, establish needs-based criteria for determining whether to assign new codes, reclaim unused codes from carriers, reclaim codes set aside for testing, establish mandatory number utilization reporting requirements and establish

^{1/} Public Notice, "Common Carrier Bureau Seeks Comment on the Maine Public Utilities Commission's Petition for Additional Authority to Implement Number Conservation Measures," DA 99-638, released April 1, 1999.

^{2/} Maine Public Utilities Commission's Petition for Additional Delegated Authority to Implement Number Conservation Measures, filed March 17, 1999 (hereinafter "Request").

procedures to audit carrier utilization reports.^{3/} Additionally, the PUC seeks to implement interim unassigned number porting, and, if the Commission has not established national guidelines by December 31, 1999, thousand block number pooling.

Nextel submits these comments to oppose the PUC's Request, to the extent discussed below, because its proposals would impose a different set of number assignment and code conservation standards and guidelines in Maine than are imposed in other states, thus complicating the North American Numbering Plan Administrator's ("NANPA") efforts to implement and direct the code assignment process and create operational complexities for carriers.

II. BACKGROUND

In its 1998 decision regarding the Pennsylvania Public Utilities Commission's decision ordering number assignment measures,^{4/} the Commission affirmed its earlier conclusion that it has plenary authority over administration of the NANPA pursuant to the Communications Act,^{5/} and it delegated only limited authority for states to select among certain code relief alternatives. The PA PUC decision granted states additional authority to order code rationing in narrowly defined circumstances: (a) there is a specific code relief plan in place,

^{3/} Request at p.5.

^{4/} Memorandum Opinion and Order and Order on Reconsideration, FCC 98-224, CC Docket No. 96-98, NSD File No. L-97-42 (released September 28, 1998) ("PA PUC Decision").

^{5/} See Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) at para. 285.

(b) the Numbering Plan Area ("NPA") would run out of numbers prior to the implementation of relief, and (c) the industry has been unable to reach a consensus on a rationing plan.^{6/} However, other conservation measures, such as number pooling -- whether thousands block pooling or individual telephone number pooling -- were not delegated to the states because "of the activity occurring at the federal level to develop such national standards" for number pooling.^{7/} As the Commission stated therein, "[i]f each state commission were to implement its own NXX code administration measures without any uniformity or standards, it would hamper the [North American Numbering Plan Administrator's] efforts to carry out its duties as the centralized NXX code administrator."^{8/}

Thus, in its most recent order, the Commission reaffirmed the demarcation of jurisdiction regarding numbering issues. At the same time, however, the Commission indicated that it would entertain state requests for additional authority to implement conservation measures outside the scope of their delegated authority.^{9/} The Commission stated that it is "interested in working with state commissions that have additional ideas for innovative number conservation methods that this Commission has not addressed, or state commissions that wish to initiate number pooling trials the implementation of which would fall outside of

^{6/} PA PUC Decision at para. 24.

^{7/} *Id.* at para. 27.

^{8/} *Id.* at para. 33.

^{9/} *Id.* at para. 31.

the guidelines we adopt in this Order."10/ Such requests, however, would have to demonstrate "a proposed conservation method [that] will conserve numbers and thus slow the pace of area code relief, without having anti-competitive consequences. . ."11/

Additionally, the Commission has initiated a proceeding to investigate number conservation measures at the federal level.12/ After the recent work of the NANC and its Number Resource Optimization working group ("NRO") to develop nationwide number pooling standards and other code conservation mechanisms, the Commission sought industry comment on the NRO's conclusions and is working to develop national number pooling and conservation measures. By conducting this investigation at the federal level, the Commission can ensure the adoption of nationwide standards rather than a patchwork of state rules and regulations that would be "impossible" for the NANPA to administer.13/

III. DISCUSSION

Despite the PUC's request for additional authority to implement code conservation measures, Nextel reiterates herein that there are numerous avenues open to the PUC to improve efficiencies in the number assignment and utilization process. For example, the

10/ *Id.*

11/ *Id.*

12/ Public Notice, "Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures," NSD File No. L-98-134, DA 98-2265, released November 6, 1998.

13/ See PA PUC Decision at para. 33.

PUC can implement rate center consolidation and inconsistent rate centers without the need for additional authority from the Commission. These measures are potentially helpful in preserving numbering resources and ensuring that they are assigned in an effective and efficient manner, and such measures do not interfere with the Commission's attempt to improve the Nation's telephone number assignment process nor do they create significant operational and technical difficulties for multi-state, regional and national carriers. By implementing the conservation methodologies already within their numbering jurisdiction, the PUC could ease number exhaust problems in Maine and reduce the costs imposed on consumers as a result of new area codes without jeopardizing the ongoing federal process to create a more efficient number assignment process.

A. Pooling Measures

In the Request, the PUC proposes to explore and implement 1,000 number block pooling and interim unassigned number porting.^{14/} To the extent that carriers are Local Number Portability ("LNP")-capable and can thereby participate in 1,000 block number pooling, the PUC's proposal could improve efficiencies in the code allocation process in Maine. Nextel, therefore, does not oppose the PUC's request to impose 1,000 block number pooling if (a) it is limited only to LNP-capable carriers, and (b) it is not a substitute for area code relief. Because wireless carriers are not LNP-capable and will not be prepared to implement LNP until

^{14/} Request at pp. 4-7.

well after the wireline industry, the PUC must ensure that wireless carriers continue to have access to 10,000 number blocks on a timely basis. Additionally, similar to the mandatory pooling trial in Illinois, the PUC should be required to establish a specific relief plan, *i.e.*, split or an overlay, that can be implemented expeditiously should telephone numbers exhaust despite the use of 1,000 number block pooling.

With regard to the PUC's other pooling proposal, *i.e.*, unassigned number porting, Nextel notes that the NANC's Number Resource Optimization ("NRO") committee has already studied this conservation measure. The NRO Report concluded that unassigned number porting, *i.e.*, the direct transfer of telephone numbers from one carrier's inventory to another, would not be required with the implementation of 1,000 number pooling. Thus, if 1,000 block number pooling is implemented as described above, this conservation measure would not be necessary -- particularly if the PUC implements the other numbering changes that are already within its scope of authority.

B. Auditing and Enforcement Measures

The PUC's request for authority over the auditing, reporting, allocation and enforcement of telephone numbers and their usage is an attempt to step into the shoes of NANPA and establish Maine's own rules and requirements regarding the assignment of telephone numbers. Fill rates, the return of unused telephone numbers, completion of code usage surveys, and enforcement of code allocation measures all fall within the NANPA's authority, and the

PUC has provided no reason why it should be allowed to overtake these responsibilities and create inconsistent guidelines for carriers operating in Maine.^{15/}

NANPA is charged with allocating numbers to carriers, pursuant to consistent nationwide standards, and enforcing compliance with those standards. As the Commission has already concluded, allowing states to impose their own requirements could result in a hodge-podge of enforcement guidelines, making it "impossible" for the NANPA to administer the rules and carriers to comply with them. NANPA has initiated a process to improve its guidelines and enforcement. The PUC should participate in this process and assist in improving the efficiencies of NANPA guidelines on a nationwide basis. Nothing in the PUC's proposal avoids the inconsistencies and potential complexities that would result from its own set of code allocation and enforcement rules.


IV. CONCLUSION

To the extent described above, Nextel opposes the PUC's proposals and requests that the Commission encourage Maine and

^{15/} The PUC asserts that its proposals are not inconsistent with any existing guidelines because there is no one currently enforcing any such guidelines at the state or federal level. This argument is without merit since Florida, New York and Massachusetts are simultaneously seeking similar authority. If the Commission granted each of these petitions, carriers such as Nextel would be subject to at least four varying sets of guidelines. This, of course, does not consider the numerous other states that would follow with similar requests. See Petition of the California Public Utilities Commission and of the People of the State of California For Delegation of Additional Authority, filed April 23, 1999, in NSD File No. L-97-42.

other states to work with NANPA and the industry to resolve code allocation inefficiencies on a nationwide basis.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert S. Foosaner', is written over a horizontal line.

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Vice President and
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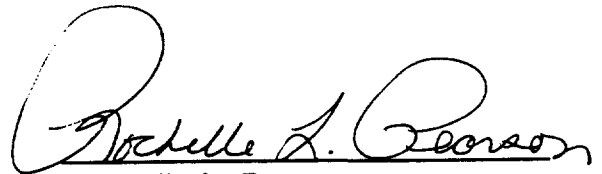
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Date: May 3, 1999

CERTIFICATE OF SERVICE

I, Rochelle L. Pearson, hereby certify that on this 3rd day of May 1999, caused a copy of the attached Comments of Nextel Communications, Inc. to be served by hand delivery to the following:

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Rochelle L. Pearson